

IN THE SUPREME COURT OF THE STATE OF DELAWARE

IN THE MATTER OF THE §
PETITION OF JERON D. BROWN § No. 505, 2009
FOR A WRIT OF MANDAMUS §

Submitted: September 14, 2009
Decided: September 17, 2009

Before **STEELE**, Chief Justice, **HOLLAND** and **BERGER**, Justices

ORDER

This 17th day of September 2009, it appears to the Court that:

(1) The petitioner, Jeron D. Brown, seeks to invoke this Court’s original jurisdiction to issue an extraordinary writ of mandamus¹ to compel the Superior Court to deliver to him items he characterizes as “discovery material” in Criminal Identification Number 0401017178. The State of Delaware has filed an answer requesting that Brown’s petition be dismissed. We find that Brown’s petition manifestly fails to invoke the original jurisdiction of this Court. Accordingly, the petition must be dismissed.

(2) The record reflects that, in March 2005, Brown was found guilty by a Superior Court jury of Burglary in the Second Degree, Theft, Criminal Mischief, and Receiving Stolen Property in connection with three burglaries in Dover, Delaware. This Court affirmed Brown’s convictions

¹ Del. Const. art. IV, §11(6); Supr. Ct. R. 43.

and sentences on direct appeal.² This Court also affirmed the Superior Court's denial of Brown's motion for postconviction relief.³ In his instant petition, Brown specifically requests copies of the search warrant for his Dover residence, his co-defendant's arrest records, his grand jury indictment, his plea agreement, and his trial witness list.

(3) A writ of mandamus is an extraordinary remedy issued by this Court to compel a trial court to perform a duty.⁴ As a condition precedent to the issuance of the writ, the petitioner must demonstrate that a) he has a clear right to the performance of the duty; b) no other adequate remedy is available; and c) the trial court has arbitrarily failed or refused to perform its duty.⁵

(4) There is no basis for the issuance of a writ of mandamus in this case. There is no support, factual or legal, for the proposition that the Superior Court has arbitrarily failed or refused to perform a duty clearly owed to Brown---that is, to order discovery in a case no longer pending before it. In the absence of any such support, Brown's petition for a writ of mandamus must be dismissed.

² *Brown v. State*, 897 A.2d 748 (Del. 2006).

³ *Brown v. State*, Del. Supr., No. 578, 2008, Berger, J. (July 6, 2009).

⁴ *In re Bordley*, 545 A.2d 619, 620 (Del. 1988).

⁵ *Id.*

NOW, THEREFORE, IT IS ORDERED that Brown's petition for a writ of mandamus is DISMISSED.

BY THE COURT:

/s/ Randy J. Holland
Justice